



## **State of Connecticut**

### **HOUSE OF REPRESENTATIVES STATE CAPITOL**

**REPRESENTATIVE GAIL LAVIELLE**  
**ONE HUNDRED FORTY-THIRD ASSEMBLY DISTRICT**

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**MEMBER**  
**APPROPRIATIONS COMMITTEE**  
**EDUCATION COMMITTEE**  
**TRANSPORTATION COMMITTEE**

### **Testimony in Support of HB 5488**

#### **An Act Concerning Risk Reduction Credits for Certain Criminal Offenses that Result in the Death of Another Person**

#### **Judiciary Committee**

**March 19, 2012**

Good afternoon, Senator Coleman, Representative Fox, Senator Kissel, Representative Hetherington, and members of the Judiciary Committee. Thank you for raising HB 5488, and for this opportunity to testify in support of the bill.

This bill makes individuals who have been convicted of certain crimes that have caused death ineligible for risk reduction credits that allow them to reduce their jail time.

During the 2011 legislative session, I opposed HB 6650, which introduced risk reduction credits for incarcerated persons convicted of a range of violent crimes. My present focus on crimes that have caused death is motivated by the recent experience of constituents from my own town of Wilton.

On July 5, 2009, Thomas Fleming was driving a motorcycle on Route 33 in Wilton. He was struck by a car being driven on the wrong side of the road, was thrown from his motorcycle, and died that day from his injuries. The driver of the car was found guilty of manslaughter in the second degree, with a vehicle, and of illegal operation of a motor vehicle while under the influence of intoxicants. Tests showed the presence of alcohol and certain other drugs in his system. The driver, who subsequently became inmate #374809, was sentenced to 10 years in prison, with a five-year suspension.

The driver was convicted in March, 2010, and sentenced in June, 2010. He spent the three months between conviction and sentencing in prison and was awarded 91 days of credit for the time spent. In this instance the credit reflected the actual time spent. Since June, 2010, he has continued to serve his sentence. Meanwhile, Public Act 11-51 (formerly HB 6650), took effect during the summer of 2011. Subsequently, in the fall of last year, Mr. Fleming's family and friends learned that the driver had been retroactively awarded 76 days of credit for the time since June, 2010 that he had spent in prison before the new law took effect. They also learned that he was eligible for further credits, and that he might ultimately have to serve only 2-3 years of his sentence.

Mr. Fleming was a lifelong resident of Wilton and a widely beloved figure in the community. The news that inmate #374809 is eligible for early release under the new law has been a source of distress to his family, his friends, and many others in the community, and they feel that the award of retroactive risk reduction credits has added insult to injury. They also feel that the judicial system has failed them in any attempt at discipline or justice, and they feel betrayed.

Justice is an elusive and controversial concept when death is involved, because no punishment can bring back someone who has died. While those who cause death either with the intent to inflict harm or through recklessness and irresponsibility have sentences that may be adjusted, death is absolute and final.

Our judicial system is built on principles that attempt to assign penalties commensurate with the seriousness of the crimes they are meant to punish. Causing death with the intent to inflict harm or through recklessness is among the most serious of crimes. Reducing prison sentences for those who have been convicted of such crimes, on the basis of behavior during incarceration and enrollment in certain rehabilitative programs, undermines our judicial system's role in imposing appropriate penalties and in establishing deterrents, and its very credibility as well.

I believe that the passage of Public Act 11-51 reflected a loss of perspective on the seriousness of crimes that cause death. Passing HB 5488 would go a long way toward restoring that perspective, and I respectfully urge the Committee to support it.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Lavielle', written in a cursive style.

Gail Lavielle  
State Representative